

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

People of the State of Illinois)	
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)	
Complaint to Suspend Tariff Changes)	
Submitted by Ameren Illinois and to)	
Investigate Ameren Illinois Rate MAPP)	
Pursuant to Sections 9-201, 9-250 and)	
16-108.5 of the Public Utilities Act.)	
)	Docket Nos. 13-0501, 13-0517 (Cons.)
Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	
Revisions to its formula rate structure)	
and protocols.)	

**REPLY BRIEF OF THE STAFF OF THE
ILLINOIS COMMERCE COMMISSION**

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The Staff (“Staff”) of the Illinois Commerce Commission (“Commission” or “ICC”), by and through its counsel, and pursuant to Section 200.800 of the Commission’s Rules of Practice (83 Ill. Adm. Code 200.800.), respectfully submits this Reply Brief in the above-captioned matter.

I. INTRODUCTION

A. Introduction

Section 16-108.5 of the Public Utilities Act (“PUA” or “Act”) provides that an electric utility or combination utility (providing electric service to more than one million customers in Illinois and gas service to at least 500,000 customers in Illinois) may elect to become a “participating utility” and voluntarily undertake an infrastructure investment

program as described in the Section. A participating utility is allowed to recover its expenditures made under the infrastructure investment program through the ratemaking process, including, but not limited to, the performance-based formula rate and process set forth in Section 16-108.5. (220 ILCS 5/16-108.5(b).) Section 16-108.5(d) of the Act requires a participating utility to file, on or before May 1 of each year, with the Chief Clerk of the Commission its updated cost inputs to the performance-based formula rate for the applicable rate year and the corresponding new charges, based on final historical data reflected in the utility's most recently filed annual FERC Form 1, plus projected plant additions and correspondingly updated depreciation reserve and expense for the calendar year in which the inputs are filed. (220 ILCS 5/16-108.5(d).)

On January 3, 2012, the Ameren Illinois Company d/b/a Ameren Illinois ("AIC" or "Ameren" or "Company") filed with the Illinois Commerce Commission ("Commission") its performance-based formula rate tariff, Rate MAP-P Modernization Action Plan—Pricing Tariff ("Rate MAP-P"). That docket established the terms of the formula. On April 20, 2012, AIC filed its updated cost inputs to the performance based formula rate for the applicable rate year and new corresponding charges.

On April 19, 2013, Ameren filed its annual update of cost inputs pursuant to Section 16-108.5(d) of the Act. That docket (ICC Docket No. 13-0301) is Ameren's third filing under the Electric Infrastructure Modernization Act ("EIMA"). In that docket, the Commission will establish a new revenue requirement to take effect on January 1, 2014 based on the historical FERC Form 1 reports for 2012 and projected plant additions for 2013 and reconcile the revenue requirement for 2012 with actual costs for 2012. The reconciliation balance (used interchangeably with reconciliation adjustment) will be

added to the new revenue requirement and collected in rates effective on January 1, 2014.

On May 22, 2013, the Illinois General Assembly enacted Public Act 98-0015 ("P.A. 98-0015"), which amended Section 16-108.5 of the Act in certain respects. On May 30, 2013, Ameren filed revisions to its formula rate tariffs in response to P.A. 98-0015. Pursuant to Section 16-108.5(k)(1) of the Act, as amended by P.A. 98-0015, the Commission approved that tariff filing on June 5, 2013 in ICC Docket No. 13-0385. On June 5, 2013, Ameren filed Supplemental Direct Testimony in ICC Docket No. 13-0301 showing the changes resulting from the changes in its formula rate tariffs subsequent to P.A. 98-0015.

Staff, the AG, and other parties filed direct and rebuttal testimony, and Ameren filed surrebuttal testimony in ICC Docket No. 13-0301, addressing various adjustments to Ameren's performance-based formula rate structure or protocols. Ameren responded to Staff and the AG that these adjustments could not be made in the absence of a change to the formula rate tariff, which, pursuant to Sections 16-108.5(d)(3), must be made in a separate Section 9-201 proceeding. (See Ameren Ex. 17.0, ICC Docket No. 13-0301.) Ameren, Staff, and the AG requested that the Commission not make a finding regarding the subject formula rate template adjustments in ICC Docket No. 13-0301.

It is Ameren's position that in order for any formula rate template adjustments addressed in the consolidated dockets to be reflected in rates effective in 2014, an order approving such *formula rate template adjustments* must be entered no later than December 1, 2013, due to the requirement of the Act that "any change ordered by the

Commission shall be made at the same time new rates take effect following the Commission's next order pursuant to subsection (d) of this Section, provided that the new rates take effect no less than 30 days after the date on which the Commission issues an order adopting the change." 220 ILCS 5/16-108.5(c). Staff disagrees with Ameren's interpretation of the Act's requirements and will be addressing that issue in the "non-current proposal" phase of this proceeding.

Therefore, Ameren, Staff and the AG requested that "current proposal"¹ be addressed in an order on or before November 27, 2013, in order that any adjustments that impact the schedules, appendices, or workpapers and the resultant revenue requirement impacts, if any, can be adjusted and the impact of the changes can be reflected in rates at the same time new rates take effect following the Commission's order in Docket No. 13-0301. It must be noted that Staff does not agree that the "current proposal" must be approved no later than December 1, 2013 in order for the Commission to reflect those changes in the calculation of the revenue requirement arising from the Commission's Order in Docket No. 13-0301; however, Staff does not oppose the Commission's advance consideration of those changes (See Staff Ex. 8.0, 3:48-58.) within this proceeding, as further discussed below.

B. Procedural History

On August 19, 2013, Ameren filed its Proposed Revisions to Formula Rate Structure and Protocols to be effective October 3, 2013. On September 10, 2013, the Commission suspended the Ill. C. C. No. 1, 1st Revised Sheet Nos. 16,002 & 16,003,

¹ As of September 18, 2013, Ameren, Staff, and the AG agreed a "current proposal" consisted of adjustments that had been (1) raised in the AG Complaint in Docket No. 13-0501, (2) proposed by Ameren in its Docket No. 13-0517 tariff filing, or (3) proposed on the record in Docket No. 13-0301.

and 3rd Revised Sheet No. 16.004 (“Filed Rate Schedule Sheets”) through and including January 15, 2014.

On August 30, 2013, the People of the State of Illinois (“AG”) filed a Complaint by the People of the State of Illinois to Suspend Tariff Changes submitted by Ameren Illinois and to Investigate Ameren Illinois Rate MAP-P Pursuant to Sections 9-201, 9-250 and 16-108.5(c) of the PUA.

Ameren appeared, and Citizens Utility Board (“CUB”) petitioned to intervene, in ICC Dockets No. 13-0501 and 13-0517 separately. On September 11, 2013, the AG filed a Motion to Consolidate Docket Nos. 13-0301, 13-0501, and 13-0517.² Staff, Ameren, CUB, and the AG filed an Agreed Joint Motion to Consolidate and Establish a Schedule in Dockets 13-0501 and 13-0517, and for Entry of Supervisory Order in Dockets 13-0301, 13-0501, and 13-0517 (“Joint Motion”) on September 18, 2013. Ameren, Staff, and the AG agreed that the AG’s Motion to Consolidate would be held in abeyance subject to the ALJs’ ruling on the Joint Motion. That Joint Motion was granted by the Administrative Law Judges (“ALJ”). The parties filed their respective direct testimony on October 2, 2013. Ameren filed its rebuttal testimony on October 7, 2013. Staff presented “non-current proposals” in its direct testimony, and the parties agreed that those non-current proposals should be considered by the Commission on a separate time-frame than the “current proposals.” The ALJs ordered the parties to address the non-current proposals on a separate time-frame.³ On October 10, 2013, an evidentiary hearing on the “current proposals” was held. Pursuant to the schedule

² The AG’s Motion to Consolidate was filed in ICC Docket Nos. 13-0301 and 13-0517, but not 13-0501.

³ The ALJs ordered the Company to file its rebuttal testimony on the non-current proposals on or before October 30, 2013, Staff and Intervenors to file their respective rebuttal testimony on the non-current proposals on or before November 18, 2013, and set an evidentiary hearing for the non-current proposals for January 14, 2014.

established by the ALJs, Staff, CUB, the AG, and Ameren filed their Initial Briefs in the consolidated dockets on the “current proposals” on October 17, 2013. Staff now files this Reply Brief in the consolidated dockets on the “current proposals.”

C. Legal Standard

Pursuant to Sections 16-108.5(c) and (d), the Commission does not have the authority to approve a modification or change in the “structure or protocols” of the performance-based formula rate during a reconciliation or update docket:

Until such time as the Commission approve a different rate design and cost allocation pursuant to subsection (e) of this Section, rate design and cost allocation across customer classes shall be consistent with the Commission’s most recent order regarding the participating utility’s request for a general increase in its delivery services rates.

(220 ILCS 5/16-108.5(c).)

The Commission shall not, however, have the authority in a proceeding under this subsection (d) to consider or order any changes to the structure or protocols of the performance-based formula rate approved pursuant to subsection (c) of this Section.

(220 ILCS 5/16-108.5(d).) The General Assembly, did however, grant the Commission the authority to modify performance-based formula rate structures of participating utilities outside the formula rate reconciliation or update filings:

Subsequent changes to the performance-based formula rate structure or protocols shall be made as set forth in Section 9-201 of this Act, but nothing in this subsection (c) is intended to limit the Commission’s authority under Article IX and other provisions of this Act to initiate an investigation of a participating utility’s performance-based formula rate tariff, provided that any such changes shall be consistent with paragraphs (1) through (6) of this subsection (c). Any change ordered by the Commission shall be made at the same time new rates take effect following the Commission’s next order pursuant to subsection (d) of this Section, provided that the new rates take effect no less than 30 days after the date on which the Commission issues an order adopting the change.

(220 ILCS 16-108.5(c).)

Section 9-201 of the Act states:

Whenever there shall be filed with the Commission any schedule stating an individual or joint rate or other charge, classification, contract, practice, rule or regulation, the Commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate or other charge, classification, contract, practice, rule or regulation, and pending the hearing and decision thereon, such rate or other charge, classification, contract, practice, rule or regulation shall not go into effect.

(220 ILCS 5/9-201(b).) Moreover, Section 9-201(c) of the Act provides:

If the Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, classification, contract, practice, rule or regulation, the Commission shall establish the rate or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. In such hearing, the burden of proof to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole or in part, shall be upon the utility. . . . No rate or other charge, classification, contract, practice, rule or regulation shall be found just and reasonable unless it is consistent with Sections of this Article.

(220 ILCS 5/9-201(c).)

II. FORMULA RATE ISSUES

A. Uncontested Issues

1. Uncollectible Expense

a. Reconciliation Year – FR A-1 Rec

b. Gross-up of Reconciliation with Interest and/or Collar revenue requirement adjustments for Uncollectible Expense

2. Year-end balances for Materials & Supplies and Customer Deposits

B. Contested Issues

1. Return on Equity Collar Calculation

CUB mischaracterizes Staff's position regarding the Return on Equity Collar calculation stating that Staff recommends that Ameren's ROE calculation be based on average rate base in the ROE collar calculation. (CUB IB, 6.) Staff's calculation of the ROE collar in Docket No. 13-0301 utilizes a year-end rate base. (Staff IB, 9.)

2. Reconciliation Interest Calculation

CUB also mischaracterizes Staff's position regarding the net-of-tax recommendations proposed by AG witness Brosch. (CUB IB, 12.) In its IB, Staff specifically states that Staff "cannot support the proposal made by Mr. Brosch and Mr. Effron to net Accumulated Deferred Income Tax related to the reconciliation balance before calculating interest," because it would be contrary to the law which does not indicate that interest is to be applied to only a portion of the reconciliation balance. (Staff IB, 10.)

3. Depreciation Expense

Staff proposed an adjustment to reflect the incremental amount of depreciation expense and related changes to rate base components due to the utilization of depreciation rates from AIC's updated depreciation rate study that became effective January 1, 2013. (Staff Ex. 4.0, 16-17; Staff Ex. 4.0, Schedule 7.05 FY.) The Company accepted Staff's adjustment in its Initial Brief. (AIC IB, 23.) CUB recommended the Commission's adoption of Staff's adjustment in its Initial Brief. (CUB IB, 14.) And the AG also agreed to Staff's adjustment in its Initial Brief. (AG IB, 25.) However, the AG proposed changes to AIC's formula rate schedules to implement the depreciation

expense adjustment that are different than the changes proposed by the Company. Staff is indifferent as to which formula rate schedules changes are approved by the Commission, since both proposals provide adequate disclosure to implement Staff's adjustment.

4. Separate Cash Working Capital Calculation for Filing and Reconciliation Year

Staff continues to propose changes to incorporate Staff's two separate cash working capital ("CWC") calculations in the Company's current formula rate case, Docket No. 13-0301. (Staff IB, 12-17.) Staff proposed two separate CWC calculations because CWC for the filing year and the reconciliation year are different. The Filing Year Revenue Requirement includes projected plant additions, as well as the associated derivative adjustments. The derivative adjustments associated with the projected plant additions include accumulated depreciation, depreciation expense, accumulated deferred income tax, federal and state income tax, and CWC. All derivative adjustments for the projected plant additions should be considered in the Filing Year Revenue Requirement, including the impact on CWC. Since the Reconciliation Year Revenue Requirement is based on the actual results of operation for the reconciliation year and does not consider projected plant additions and the associated derivative changes, the CWC would be based on different inputs than the CWC for the Filing Year. (Staff IB, 12.)

AIC continues to claim in its IB that any benefits derived from Staff's proposal would be outweighed by the additional burden placed on the Company requiring it to prepare two separate CWC calculations. (AIC IB, 25.) This claim is unsubstantiated since AIC did not provide testimony setting forth any analysis or studies which show that

implementing Staff's proposed changes would be costly or burdensome, and therefore, this argument should be ignored. AIC also continues to erroneously utilize the filing year and reconciliation year revenue requirements from Docket No. 13-0301 to support its claim that the impact of Staff's proposal would have an immaterial impact upon the rates to be set in Docket No. 13-0301 and future proceedings. (AIC IB, 24.) Staff's proposal should not be rejected because the Company claims the difference is immaterial. The correct filing year CWC should be used regardless of its effect on rate base. The fiscal impact of Staff's proposal in the current case should not be the criteria on which to make this decision. The Company cannot guarantee that the difference will always be a small amount. Increases in the rate of plant additions will increase the impact of a filing year CWC. (Staff IB, 17.)

Therefore, the Commission should accept Staff's proposed changes to incorporate Staff's two separate CWC calculations in Docket No. 13-0301.

5. Income Tax Expense Lead for Cash Working Capital Calculation

Staff continues to recommend that the Commission not set income tax lead days to zero, as proposed by AG witness Michael L. Brosch. (AG IB, 31-32.) Rather, Staff continues to support the position of not considering current and deferred income taxes separately as proposed by AIC. This position is consistent with Commission practice. (Staff IB, 17.)

III. PROCESS FOR IMPLEMENTATION OF FORMULA RATE TEMPLATE CHANGES IN DOCKET NO. 13-0301, IF APPROVED IN DOCKET NOS. 13-0501/13-0517

IV. CONCLUSION

WHEREFORE, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth in its Initial Brief and herein.

Respectfully,

_____/s/_____

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